



CITY OF BLACK DIAMOND
January 17, 2013 Meeting Agenda
25510 Lawson St., Black Diamond, Washington

7:00 P.M. – CALL TO ORDER, FLAG SALUTE, ROLL CALL

PUBLIC COMMENTS: Persons wishing to address the City Council regarding items of new business are encouraged to do so at this time. When recognized by the Mayor, please come to the podium and clearly state your name and address. Please limit your comments to 3 minutes. If you desire a formal agenda placement, please contact the City Clerk at 360-886-5700. Thank you for attending this evening.

PUBLIC HEARINGS:

1.) **AB13-008** – Ordinance Regarding New Flood Plain Regulations

Mr. Williamson/
Mr. Boettcher

APPOINTMENTS, PRESENTATIONS, ANNOUNCEMENTS:

State of the County Address – King County Councilman Reagan Dunn

UNFINISHED BUSINESS:

NEW BUSINESS:

DEPARTMENT REPORTS:

MAYOR'S REPORT:

2.) Report Regarding Solid Waste Interlocal Agreement Update

COUNCIL REPORTS:

ATTORNEY REPORT:

PUBLIC COMMENTS:

CONSENT AGENDA:

- 3.) **Claim Checks** – January 17, 2013 No. 39188, 39143 through 39253 (voided checks 39102, 39185 - 39187) in the amount of \$169,991.72
- 4.) **Payroll Checks** –December 28, 2012 No.17941 through No. 17962 and ACH Pay in the amount of \$301,331.54
- 5.) **Minutes** – Council Meetings of December 13, 2012 and January 3, 2013

EXECUTIVE SESSION:

ADJOURNMENT:

CITY COUNCIL AGENDA BILL

City of Black Diamond
Post Office Box 599
Black Diamond, WA 98010

ITEM INFORMATION		
SUBJECT: Public Hearing on proposed Ordinance regarding updating the City's Flood Damage Prevention code.	Agenda Date: January 17, 2013	
	AB13-008	
	Department/Committee/Individual	
	Mayor Rebecca Olness	
	City Administrator –	
	City Attorney –Chris Bacha	
	City Clerk – Brenda L. Martinez	
	Finance – May Miller	
	Public Works – Seth Boettcher	X
	Economic Devel. – Andy Williamson	
Cost Impact: None, fee supported admin.	Police – Jamey Kiblinger	
Fund Source: Storm water fund	Court – Stephanie Metcalf	
Timeline: as soon as possible	Comm. Dev. – Steve Pilcher	
Attachments: Proposed Ordinance, flood plain maps		
SUMMARY STATEMENT: <p>The City must update their flood damage prevention ordinance in order to stay eligible for the National Flood Insurance Program. The Federal Emergency Management Agency has provided the City with a model ordinance that meets all of the environmental requirements of other federal agencies.</p> <p>City staff has evaluated the flooding scenarios in the City of Black Diamond surrounding the mapped flood hazard areas and customized the model ordinance for the lowest flood insurance rates, ease of administration and compatibility with our sensitive area ordinance.</p> <p>The flood hazard areas that FEMA has mapped in the City of Black Diamond are entirely within wetland sensitive areas and therefore already are protected, but this ordinance has been updated to meet the NFIP requirements and address public projects, and reasonable use applications.</p>		
COMMITTEE REVIEW AND RECOMMENDATION:		
RECOMMENDED ACTION: Public Hearing only.		
RECORD OF COUNCIL ACTION		
<i>Meeting Date</i>	<i>Action</i>	<i>Vote</i>
January 17, 2013		

ORDINANCE NO. 13-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, KING COUNTY, WASHINGTON, REPEALING ORDINANCE NO. 410, RELATING TO FLOOD DAMAGE PREVENTION, AS CODIFIED AT BDMC CHAPTER 5.24; ADOPTING A NEW FLOOD DAMAGE PREVENTION CODE TO BE CODIFIED AT BDMC CHAPTER 5.24; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Black Diamond entered the National Flood Insurance Program in 1976 and converted to a regular program on October 30, 1979; and

WHEREAS, the City of Black Diamond established a Flood Damage Prevention code by Ordinance 410 in 1989; and

WHEREAS, the Federal Emergency Management Agency is requiring that any participant in the National Flood Insurance Program update its ordinances to comply with new environmental protections including the Endangered Species Act; and

WHEREAS, the Federal Emergency Management Agency has reviewed the City's new proposed ordinance language and has found it to be in compliance with the Agency's requirements;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BLACK DIAMOND, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Repealer. Black Diamond Ordinance No. 410, codified at Black Diamond Municipal Code Chapter 15.24, relating to Flood Damage Prevention, is hereby repealed in its entirety.

Section 2. New BDMC Chapter 15.24, Adopted. The City of Black Diamond hereby adopts a new Flood Damage Prevention Code, to be codified at Black Diamond Municipal Code Chapter 15.24, and to read as follows:

SECTION 1.0 - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE, AND OBJECTIVES

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

1.2 FINDINGS OF FACT

- 1) The flood hazard areas of Black Diamond are subject to periodic inundation which results in flooded roads and yards. If development were to be allowed in these areas there would be the potential for loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, adverse environmental impacts and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- 2) Flood losses are exacerbated by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately designed may cause damage in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise protected from flood damage also contribute to the flood loss.
- 3) The mapped flood hazard zones within the City of Black Diamond are entirely within protected wetlands.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed:

- 1) To protect human life and health;
- 2) To minimize expenditure of public money and costly flood control projects;
- 3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4) To minimize prolonged business interruptions;
- 5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;
- 6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

- 7) To ensure that potential buyers are notified that property is in an area of special flood hazard and;
- 8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

1.4 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance includes methods and provisions for:

- 1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- 2) Requiring that uses vulnerable to floods, including facilities which serve such uses, process permits through the variance procedure to show necessity and minimize the impact of development within the flood hazard zone and such uses designed to be protected against flood damage at the time of initial construction;
- 3) Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help to accommodate or channel flood waters;
- 4) Controlling, filling, grading, dredging, and other development within the flood plain; and
- 5) Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

SECTION 2.0 – DEFINITIONS

APPEAL: a request for a review of the interpretation of any provision of this ordinance or a request for a variance.

AREA OF SHALLOW FLOODING: designated as AO, or AH Zone on the Flood Insurance Rate Map (FIRM). AO zones have base flood depths that range from one to three feet above the natural ground; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow; AH indicates ponding, and is shown with standard base flood elevations.

AREA OF SPECIAL FLOOD HAZARD: is the land in the flood plain within a

community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

BASE FLOOD: the flood having a 1% chance of being equaled or exceeded in any given year (also referred to as the “100-year flood”) as designated on Flood Insurance Rate Maps by the letters A or V.

BASEMENT: means any area of the building having its floor sub-grade (below ground level) on all sides.

BREAKAWAY WALL: means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

CRITICAL FACILITY: means a facility for which even a slight chance of flooding might be too great. Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

DEVELOPMENT: means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

INFRASTRUCTURE OF PUBLIC SIGNIFICANCE: means a public improvement, roads, utilities, sidewalks, pedestrian paths, bridges or parks.**ELEVATION CERTIFICATE:** means the official form (FEMA Form 81-31) used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and determine the proper insurance premium rate with Section B completed by Community Officials.

ELEVATED BUILDING: means, for insurance purposes, a non-basement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted

floodplain management regulations.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FLOOD or FLOODING: means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) The overflow of inland or tidal waters; and/or
- 2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD INSURANCE RATE MAP (FIRM): means the official Flood Insurance Rate Map for King County and Incorporated Areas, dated May 16, 1995 and any official revisions thereto.

FLOOD INSURANCE STUDY (FIS): means the official Flood Insurance Study for King County and Incorporated Areas, dated April 19th, 2005, and any official revisions thereto.

FLOODWAY: means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

LOWEST FLOOR: means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance found at Section 5.2-1(2), (i.e. provided there are adequate flood ventilation openings).

MANUFACTURED HOME: means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION: means a parcel (or contiguous parcels) of land divided into two or more manufactured home

lots for rent or sale.

NEW CONSTRUCTION: means structures for which the “start of construction” commenced on or after the effective date of this ordinance.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

RECREATIONAL VEHICLE: means a vehicle,

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable by a light duty truck; and
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

START OF CONSTRUCTION: includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE: a walled and roofed building, including a gas or liquid

storage tank that is principally above ground.

SUBSTANTIAL DAMAGE: means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- 1) Before the improvement or repair is started; or
- 2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

- 1) Any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- 2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE: means a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

WATER DEPENDENT: means a structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

SECTION 3.0 – GENERAL PROVISIONS

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3.1 LANDS TO WHICH THIS ORDINANCE APPLIES

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of Black Diamond.

3.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for King County and Incorporated Cities" dated May 16, 1995 and 2005, and any revisions thereto, with an accompanying Flood Insurance Rate Map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and the FIRM are on file at the City of Black Diamond. The best available information for flood hazard area identification as outlined in Section 4.3-2 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under Section 4.3-2.

3.3 ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

3.4 INTERPRETATION

In the interpretation and application of this ordinance, all provisions shall be:

- 1) Considered as minimum requirements;
- 2) Liberally construed in favor of the governing body; and,
- 3) Deemed neither to limit nor repeal any other powers granted under State statutes.

3.5 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Black Diamond, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully

made hereunder.

SECTION 4.0 – ADMINISTRATION

4.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

4.1-1 ACTIVITIES AND PERMITTED USES

- 1) Infrastructure of public significance is an allowed use within a flood hazard zone as long as the design of the feature or the activity meets the requirements of section 5.0.
- 2) Development and Structures as set forth in the Definitions are only allowed within the flood hazard zone by variance only.

4.1-1 DEVELOPMENT PERMIT REQUIRED

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 3.2. The permit shall be for Infrastructure of Public Significance or activities, structures, or uses approved by variance as set forth in the “Definitions.”

4.1-2 APPLICATION FOR DEVELOPMENT PERMIT

Application for a development permit shall be made on forms furnished by the City of Black Diamond and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- 1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FF 81-31) with Section B completed by the local official;
- 2) Elevation in relation to mean sea level to which any structure has been flood-proofed;
- 3) Certification by a registered professional engineer or architect that the flood-proofing methods for any nonresidential structure meet flood-proofing criteria in Section 5.2-2; and
- 4) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

4.2 DESIGNATION OF THE LOCAL ADMINISTRATOR

The Public Works Director is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

4.3 DUTIES & RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Public Works Director shall include, but not be limited to:

4.3-1 PERMIT REVIEW

- 1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
- 2) Review all development permits to determine that all necessary permits have been obtained from those Federal, State, or local governmental agencies from which prior approval is required.
- 3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5.4(1) are met.

4.3-2 USE OF OTHER BASE FLOOD DATA (IN A AND V ZONES)

When base flood elevation data has not been provided (in A or V Zones) in accordance with Section 3.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Public Works Director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer Sections 5.2, SPECIFIC STANDARDS, and 5.4, *FLOODWAYS*.

4.3-3 INFORMATION TO BE OBTAINED AND MAINTAINED

- 1) Where base flood elevation data is provided through the Flood Insurance Study, FIRM, or required as in Section 4.3-2, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, whether or not the structure contains a basement and record the information on a current elevation certificate (FF 81-31) with Section B completed by the local official.
- 2) For all new or substantially improved flood-proofed nonresidential structures where base flood elevation data is

provided through the FIS, FIRM, or as required in Section 4.3-2:

- i) Obtain and record the elevation (in relation to mean sea level) to which the structure was flood-proofed; and
 - ii) Maintain the flood-proofing certifications required in Section 4.1-2(3).
- 3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

4.3-4 ALTERATION OF WATERCOURSES

- 1) Notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
- 2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

4.3-5 INTERPRETATION OF FIRM BOUNDARIES

The Public Works Director may make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (e.g. where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

4.4 CONDITIONS FOR VARIANCES

- 1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.
- 2) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood

discharge would result.

- 3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 4) Variances shall only be issued upon:
 - i) A showing of good and sufficient cause; Proposals that are not being considered as part of a reasonable use application under the City's Sensitive Areas Ordinance will not be considered as showing good and sufficient cause;
 - ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- 5) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.
- 6) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry flood-proofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except 4.4(1), and otherwise complies with Sections 5.1-1, 5.1-3, and 5.1-4 of the GENERAL STANDARDS.
- 7) Any applicant to whom a variance is granted shall meet all of the provisions of Section 5.0.

SECTION 5.0 – PROVISIONS FOR FLOOD HAZARD REDUCTION

5.1 GENERAL STANDARDS

In all areas of special flood hazards, the following standards are required:

5.1-1 ANCHORING

- 1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- 2) All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

5.1-2 CONSTRUCTION MATERIALS AND METHODS

- 1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- 2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- 3) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5.1-3 UTILITIES

- 1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- 2) Water wells shall be located on high ground that is not in the floodway.
- 3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- 4) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

5.1-4 SUBDIVISION PROPOSALS

- 1) All subdivision proposals shall be consistent with the need

to minimize flood damage.

- 2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage.
- 3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- 4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres (whichever is less).

5.1-5 REVIEW OF BUILDING PERMITS

Where elevation data is not available either through the Flood Insurance Study, FIRM, or from another authoritative source (Section 4.3-2), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

5.2 SPECIFIC STANDARDS

5.2-1 RESIDENTIAL CONSTRUCTION

- 1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated three feet or more above the base flood elevation(BFE).
- 2) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - i) A minimum of two openings having a total net area of not less than one square inch for every square foot of

- enclosed area subject to flooding shall be provided.
- ii) The bottom of all openings shall be no higher than one foot above grade.
 - iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

5.2-2 NONRESIDENTIAL CONSTRUCTION

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated three feet or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- 1) Be flood-proofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- 2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
- 3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 4.3-3(2); and
- 4) Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in 5.2-1(2).

5.2-3 MANUFACTURED HOMES

- 1) All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated three foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

5.2-4 RECREATIONAL VEHICLES

Recreational vehicles placed on sites are required to either:

- 1) Be on the site only during the months between June 1st and Sept 31st; or
- 2) Be fully licensed and ready for highway use, on wheels or jacking systems, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- 3) Meet the requirements of 5.2-3 above and the elevation and anchoring requirements for manufactured homes.

5.3 AE AND A1-30 ZONES WITH BASE FLOOD ELEVATIONS BUT NO FLOODWAYS

In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

5.4 FLOODWAYS

Located within areas of special flood hazard established in Section 3.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

- 1) Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge;
- 2) Construction or reconstruction of residential structures is prohibited within designated floodways, except for (i) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either, (A) before the repair, or

reconstruction is started, or (B) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent; and

- 3) If Section 5.4(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 5.0, PROVISIONS FOR FLOOD HAZARD REDUCTION.

5.5 CRITICAL FACILITY

Construction of new critical facilities shall be located outside the limits of the Special Flood Hazard Area (SFHA) (100-year floodplain).

Section 3. Severability. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof, provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 4. Effective date. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by state law.

Introduced on the _____ day of _____, 2013.

Passed by the City Council on the _____ day of _____, 2013.

Mayor Rebecca Olness

ATTEST:

Brenda L. Martinez, City Clerk

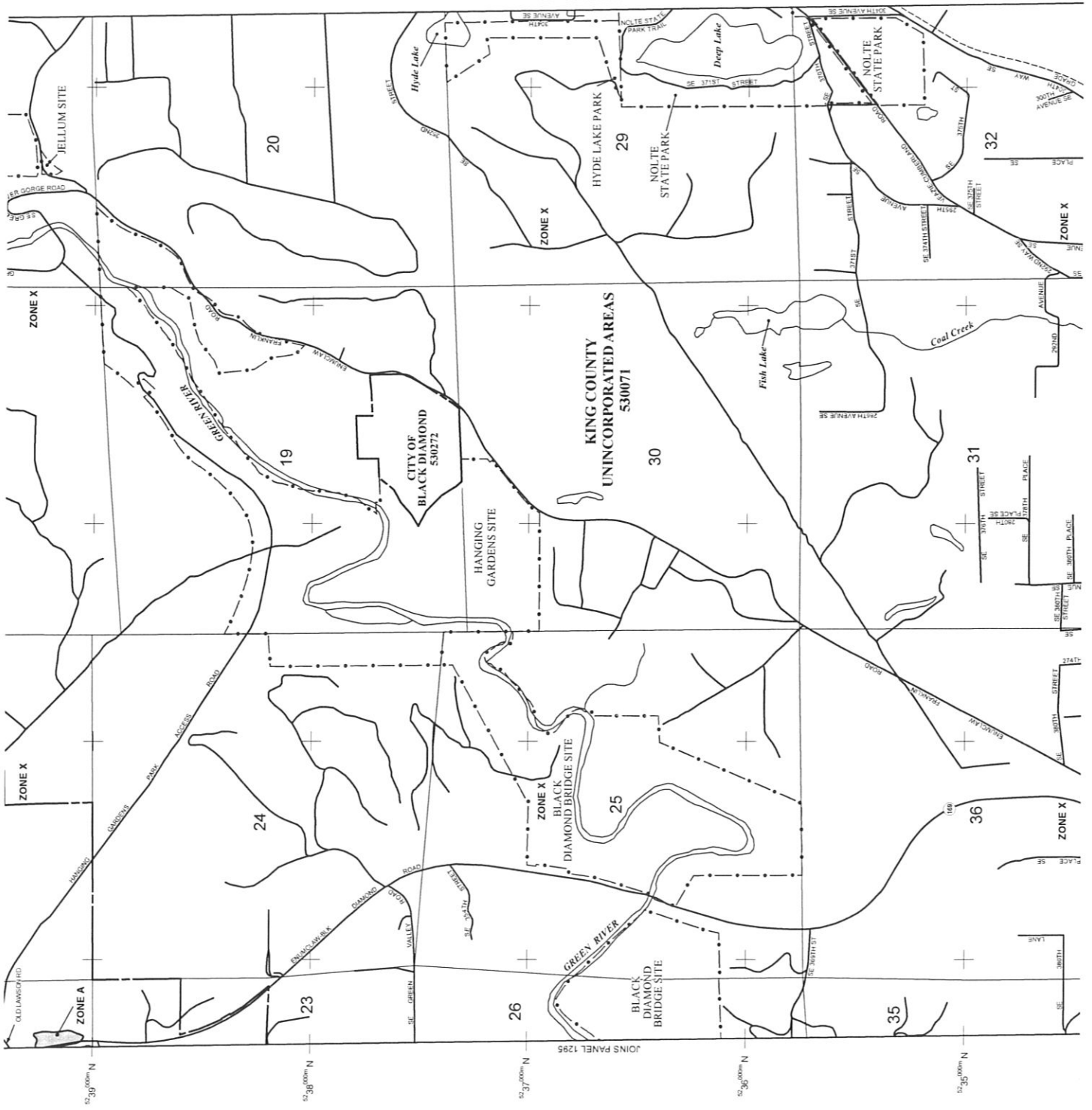
APPROVED AS TO FORM:

Chris Bacha, City Attorney

Published: _____

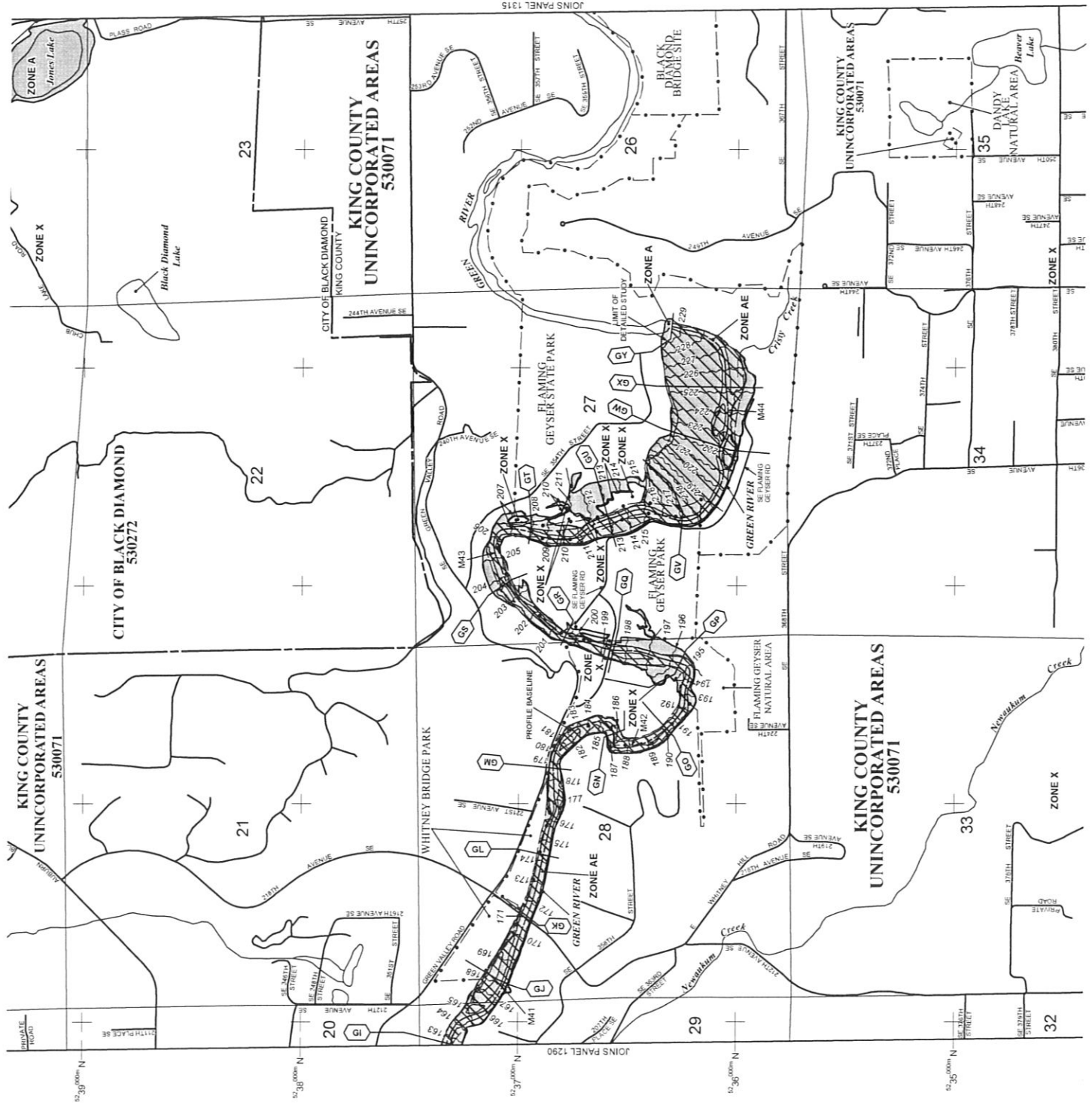
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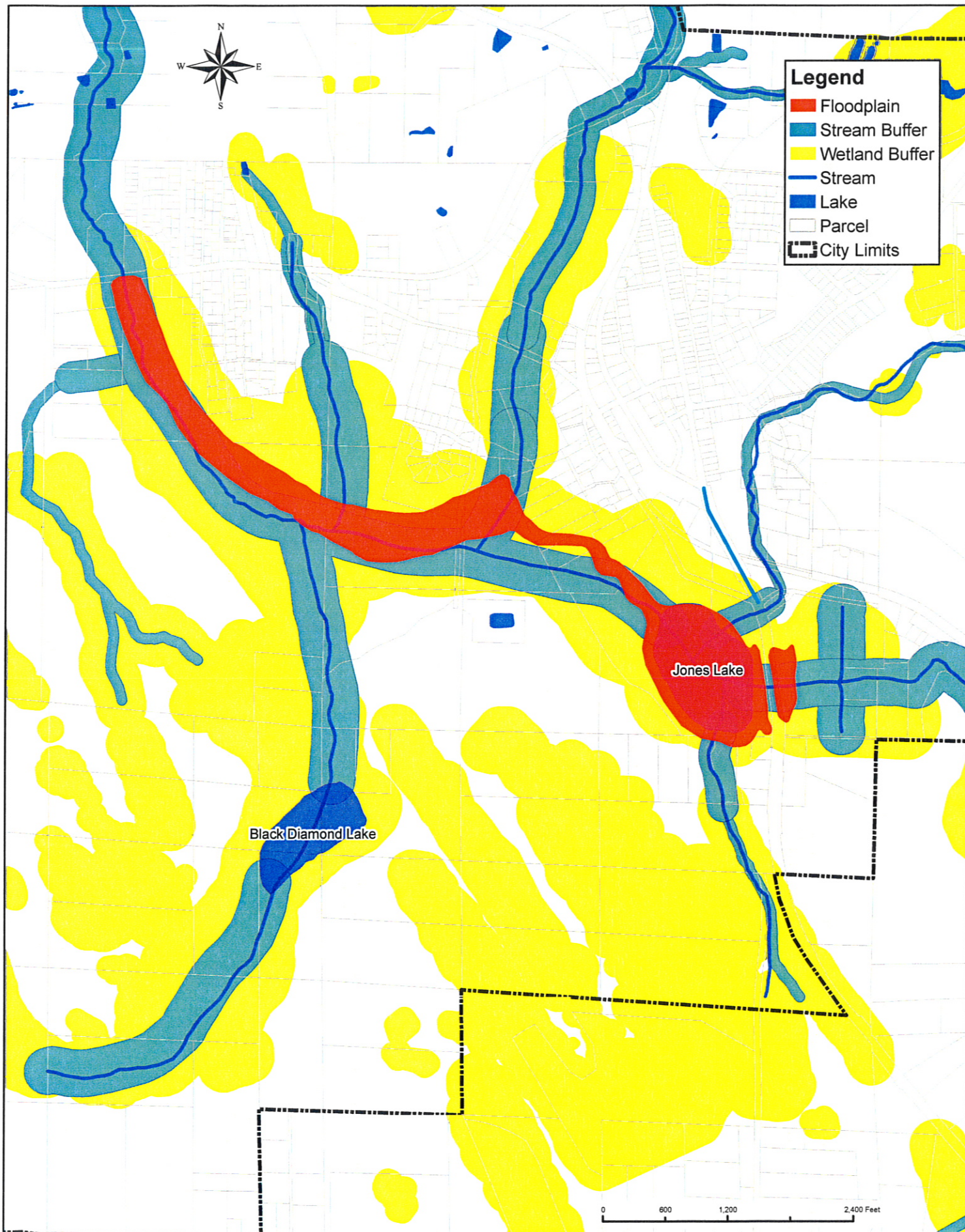
Effective Date: _____



JOINS PANEL 1325

JOINS PANEL 1295





Drawn and Approved By: SH/SB

Date: Jan. 9, 2013

Floodplain, Wetlands & Buffers

TO: City Council

FROM: Rebecca Olness

DATE: January 11, 2013

SUBJECT: SCA STAFF REPORT: Solid Waste Interlocal Agreement (ILA) Update

Overview

The County and cities have been working together over the past two years to negotiate an extension of the Solid Waste Interlocal Agreement of 1988, which lasts through June 2028 and has been adopted by every City in King County, except Seattle and Milton. Extension of the agreement will allow for the financing of transfer station system improvements with long-term bonds of at least twenty years, as well as provide the opportunity to update the agreement.

In mid-2012 negotiations stalled over environmental liability. Sound Cities Association (SCA) adopted liability principles, included in Attachment A, which were subsequently agreed to by the King County Executive and which guided the last negotiations. Agreement has been reached between the County and cities on an Amended and Restated Solid Waste Interlocal Agreement (ILA), which was distributed to cities at the end of December for their review and approval by April 30, 2013.

Amended and Restated Solid Waste Interlocal Agreement

The Amended and Restated ILA updates many issues, including the following (ILA Term Sheet included in Attachment B):

- Extension of the term of the ILA;
- Liability;
- Governance;
- Dispute Resolution;
- Cedar Hills Landfill Rent; and
- Host City Mitigation.

Key Improvements over the current ILA include the following:

Term: The ILA is extended 12.5 years, from June 2028 to the end of 2040. The ILA recognizes the need for solid waste transfer station improvements, which are being designed to last fifty years. Extension of the ILA will allow for longer-term bonds to finance these improvements, keeping solid waste rates lower. Estimated rate savings on debt from long-term bonds is \$7 to \$9 per ton, with system-wide savings of about \$4 million in the 2013/14 rate period.

Liability: Updates liability provisions to protect City and County general funds from environmental liability, per principles adopted by Sound Cities Association:

- Nothing in the agreement creates new environmental liability or releases any third party from environmental liability;

- Establishes a protocol for setting aside solid waste system funds to pay for environmental liability and, if necessary, a fair and equitable process for distributing funds; and
- Explicitly recognizes the intent of the parties to protect City and County general funds to the extent possible from environmental liability, including:
 - Purchasing insurance;
 - Establishing an environmental reserve fund;
 - Pursuing grants to cover costs; and
 - Developing a financial plan, including a rate schedule to cover costs.

Governance: Formalizes and increases City role in solid waste system planning. The Metropolitan Solid Waste Advisory Committee (MSWAC) is memorialized in the ILA; this committee is currently established in the King County Code, but not in the current ILA. A framework is established for reviewing financial policies and long-term disposal options upon the closure of the Cedar Hills Landfill (2025 is the earliest anticipated closure of Cedar Hills). The policy role of the Regional Policy Committee as provided by the King County Charter is retained.

Dispute Resolution: Adds new dispute resolution section with more standard provisions, similar to those used in other multi-party agreements with the County, including non-binding mediation.

Cedar Hills Landfill Rent: Provides for the payment of rent for the use of the Cedar Hills Landfill and the process for establishing rent, including City input and appraisals to guide the establishment of rent.

Mitigation: Adds new mitigation provisions for host and neighboring cities, guided by principles adopted by Sound Cities Association and in accordance with state law. These provisions acknowledge that solid waste facilities are regional facilities, host and neighboring cities may sustain impacts and three types of mitigation are identified to mitigate impacts of these facilities.

King County distributed the Amended and Restated ILA at the end of 2012. The County has requested from cities a non-binding statement of interest in signing the ILA by January 31, 2013 as the County must issue bonds in February to finance the new Bow Lake Transfer Station, since short-term financing expires next month

I have the following documents. If you would like copies I will provide them for you.

- A. SCA Principles: Environmental Liability
- B. ILA Term Sheet
- C. System Map
- D. Amended and Restated Solid Waste Interlocal Agreement

King County would like to know by January 31, 2013 if it is likely or not that we will sign the agreement. At the PIC meeting last Wednesday we recommended approval.